

REMARKS/ARGUMENTS

With this amendment, claims 7, 8, 11, 12, 22 and 23 are pending. Claims 1- 6, 9- 10, 13-21 and 24-25 are cancelled without prejudice. For convenience, the Examiner's rejections are addressed in the order presented in a October 17, 2008, Office Action.

I. Status of the claims

Claims 7, 11, and 22 are amended to recite administration of isolated phage tails. Support for these amendments is found throughout the specification, for example, at paragraphs [0025], [0026], [0042], [0045], [0114], [0116], [0157], [0158], and [0175]. Claims 7, 11, and 22 are also amended to remove dependency from canceled claims. These amendments add no new matter.

II. Objection to the oath/declaration

The Office Action objected to the declaration because, allegedly the full name of one of the inventors was not used. A signed and corrected declaration is included with this response. Applicants respectfully request entry of the corrected declaration.

III. Objections to the specification

The Office Action objects to the specification for various informalities. Applicants believe these are now corrected. Page nine is amended to remove reference to a "BRIEF DESCRIPTION OF THE DRAWINGS." Paragraphs [0063] and [0078] are amended to correct reference citations. Paragraph [0078] is also amended to include a period at the end of the final sentence. Paragraph [[0133] is corrected from the page 37 substitute sheet filed with the application. The correction clarifies that PROVENTIL is a trade name and albuterol is the generic form. In view of these amendments, Applicants respectfully request withdrawal of the objections to the specification.

IV. Objections to the claims

The Office Action objects to claims 7, 8, 11, 12, 22, and 23 for depending from withdrawn claims. Claims 7, 8, 11, 12, 22, and 23 are now amended to be independent claims. In view of these amendments, Applicants respectfully request withdrawal of the objection to the claims.

V. Rejections under 35 U.S.C. §112, first paragraph, enablement

Claims 7 and 8 are rejected because the specification allegedly does not teach a prophylactically effective amount of phage that can be used to inhibit growth of a target bacterium. In order to expedite prosecution, claim 7 is now amended to delete reference to prophylactic use, without prejudice. In view of this amendment, withdrawal of the rejection for alleged lack of enablement is respectfully requested.

VI. Rejection under 35 U.S.C. §102(b)

Claims 7, 8, 11, 12, 22, and 23 are rejected as anticipated by Blasi (WO 02/34892). To the extent the rejection applies to the amended claims, Applicants respectfully traverse the rejection. To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found...in a single prior art reference." *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Thus, in order to anticipate, the cited reference must contain every element of the claims at issue. The cited reference does not.

The amended claims are directed to methods of reducing bacterial population, or treating a bacterial infection, or treating a bacterial colonization by administering a pharmaceutical composition that comprises an isolated phage tail. Blasi does not disclose isolated phage tails or administration of isolated phage tails to treat or reduce a bacterial infection, colonization or population.

In view of the above amendments and remarks, withdrawal of the rejection for alleged anticipation is respectfully requested.

Appl. No. 10/574,812
Amdt. dated January 16, 2009
Reply to Office Action of October 17, 2008

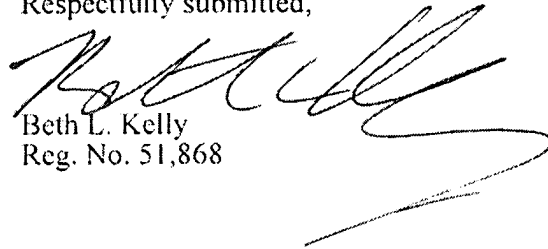
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206-467-9600.

Respectfully submitted,



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